REMARKS

1. The application was originally filed with Claims 1-44, of which Claims 31-44 have been withdrawn pursuant to a restriction. Claims 1-11, 13-30 and 45 are pending in the application. Claims 1-10, 13-30 and 45 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Pat. Appl. Publ. 2005/0245897 to Lee Bolduc et al. ("Bolduc"). Claim 11 is rejected as unpatentable in view of Bolduc in view of U.S. Pat. Appl. Publ. 2004/0199110 to Michael Basta ("Basta").

2. Claims 1-10, 13-30 and 45 are rejected, as stated, as anticipated by U.S. Pat. Appl. Publ. 2005/0245897 to Bolduc ("Bolduc"). The rejection states that Bolduc teaches the limitations of the claims in Bolduc Figs. 1, 7 and 11, and that Bolduc further discloses a plug (40) and a coiled end on Fig. 13. The rejection further states that Bolduc discloses a guidewire in the Abstract, and a radiopaque member (92). Applicants traverse the rejections.

Claim 1

Independent Claim 1 of the present application recites a catheter having first and second ends, and an insert filling a majority of an interior space defined by the catheter. As shown in Fig. 1 of the present application, in one embodiment, the catheter (the outer portion) comprises a first plurality of side apertures on the intraperitoneal (inside) end. The insert (the inner portion) includes a second plurality of side apertures on the extraperitoneal (outside) end, also shown in Fig. 1 of the present application. This placement of the apertures is designed so that, as seen in Fig. 1 and as explained in paragraph [0052], at least a portion of apertures 28 of the catheter 10 reside along the bottom of the patient's peritoneal cavity.

In Bolduc, however, as best seen in Fig. 2, the apertures 90 reside on the inner tube 32 of conduit 22 at the intraperitoneal (distal) end 26, not the outer tube 30. Indeed, Bolduc is the reverse of the present application, because in Bolduc the apertures 80 in the outer tube 30 reside near the outer or extraperitoneal end, not the intraperitoneal end. Thus, Bolduc teaches the opposite of the Claim 1 and cannot anticipate Claim 1. Claim 1 and the claims depending from Claim 1, Claims 2-11 and 13-15 are therefore allowable.

Bolduc's outer sheath 60 cannot anticipate the "catheter" of Claim 1. Outer sheath 60 is described in Bolduc as an outer sheath used to percutaneously access vasculature of a patient at the introductory site, e.g., a femoral artery. Paragraph [0076], lines 9-12; see also paragraph [0082], stating that the sheath is only used to achieve vascular access, after which

the guiding catheter is used. As further seen in Figs. 2 and 7, outer sheath 60 does not extend to the distal portion of the access, which is achieved by guide catheter 50 and catheter 22. Thus, the apertures of catheter 60 do not extend sufficiently so that "the catheter comprises a first plurality of side apertures on the intraperitoneal end of the insert," because the outer sheath 60 is used only for a very limited vasculature access, not to guide catheter 22 to the distal portion of the vasculature where the obstruction exists. See also Bolduc Fig. 8, in which catheter 22 and distal end or tip 26 has extended to the blood vessel occlusion with outer portion side apertures 80, and inner portion side apertures 90. See also text at paragraph [0082] for Fig. 8. As noted, Bolduc does not anticipate Claim 1 or its dependent claims.

The Office Action also cites Fig. 13 as teaching the coiled end of the intraperitoneal section. Office Action, p. 2, lines 14-16. Fig. 13, however, teaches only a perfusion catheter 500 with a rounded, atraumatic distal end 504. See Bolduc, paragraph [0088]. There is no coiled end, as recited in Claim 4, and as shown in the present application, e.g., Fig. 2. The Office Action cites virtually no other limitations for the other dependent claims, Claims 3, 5, 7-10, 13-15, 17-19, 21, 22, 24, 26-27, 30 and 45, which in any case are allowable because they depend from allowable Claim 1.

Nevertheless, Claim 1 has been amended in order to advance prosecution of the application. Claim 1 is not amended for any reason related to the patent law, but to better claim the invention. Thus, no estoppel applies to the amendments to Claim 1.

Claim 16

By reasoning similar to that discussed in Claim 1, Claim 16 is also allowable. Along with other limitations, Claim 16 recites a catheter having first and second ends, with a first plurality of side apertures on the second end, e.g., the distal or intraperitoneal end. The claim also recites an insert placed inside the catheter, the insert defining a cavity and having an extraperitoneal end and an intraperitoneal end, and a second plurality of side apertures on the extraperitoneal end. By the same reasoning used above for Claim 1, Bolduc's sheath 60 cannot anticipate the claimed catheter. The "insert" 22 of Bolduc cannot be placed inside sheath 60, because the sheath is much too short to accommodate the length of the insert. Claim 16 also recites a guide placed in the cavity and extending from the extraperitoneal end of the insert. See Fig. 1 of the present application, disclosing stylet or guide 50. The rejection fails to cite the guide.

Accordingly, Bolduc also does not anticipate Claim 16, which is therefore allowable, as are all claims depending from Claim 16, Claims 17-22 and 45. Dependent Claim 22 is additionally allowable by the same argument advanced above for Claim 4. The Office Action cites no teaching of Bolduc for the limitations of the other claims depending from Claim 16, which are allowable because they depend from allowable Claim 16. Nevertheless, Claim 16 has been amended in a manner similar to Claim 1, not for any reason related to the patent law, but to advance prosecution. No estoppel applies to the amendments to Claim 16.

Claim 23

Claim 23 is also allowable. Claim 23 recites, among other limitations, a tube having an intraperitoneal and extraperitoneal end, the extraperitoneal end having an increased diameter and a plurality of side apertures, the intraperitoneal end of the tube extending at least substantially to the second end of the catheter, an outer diameter of the tube filling substantially an interior space defined by the tubular catheter. Bolduc teaches an insert in which the sheath 60 extends only into the vasculature of the patient, and in which the guide catheter 50 ends substantially before the insert 22. See e.g., Fig. 7, in which sheath 60 with apertures 64 end within the patient's femoral artery, and in which guide catheter 50 ends before insert 22 ends, while the insert 22 has extended into the patient's brain. See explanatory text at paragraph [0082], describing achieving cerebral vasculature access beyond the guide catheter.

The closest approach of Bolduc is to assert that Bolduc's guide catheter 50 is the tubular catheter of Claim 23, and that Bolduc's insert 22 is the "tube" of Claim 23. Even this approach fails, however, because the intraperitoneal (distal) end of Bolduc's insert has a smaller diameter and thus fails to meet the limitation of "an outer diameter of the tube filling substantially an interior space defined by the tubular catheter. Claim 23 is thus not anticipated, nor are any of the claims depending from Claim 23, including Claims 24-30.

Claim 23 has nevertheless been amended in a manner similar to Claims 1 and 16, not for any reason related to the patent law, but to advance prosecution. No estoppel applies to the amendments to Claim 23.

3. Claim 11 is rejected as unpatentable in view of Bolduc in view of U.S. Pat. Appl. Publ. 2004/0199110 to Michael Basta ("Basta"). Claims 11 and 21, reciting a cuff, are allowable at least because they depend from allowable Claims 1 and 16.

4. Applicants submit the claims are allowable and respectfully request the Examiner to reconsider the rejections and to allow the claims of the application. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,

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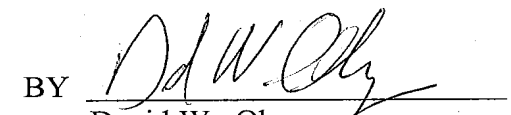
BY 

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